

Appl. No. 10/787,342
Docket No. AA615M
Amdt. dated October 16, 2007
Reply to Office Action mailed on February 6, 2007
Customer No. 27752

REMARKS

Claim Status

Claims 2-4 and 11 are pending in the present application. No additional claims fee is believed to be due.

Claims 1, 4-10 and 12 are cancelled without prejudice.

Claim 11 has been amended to more specifically characterize the claimed invention. Claims 2-4 have been amended to supply antecedent basis.

It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

Applicants thank the Examiner for the withdrawal of the rejection under 35 U.S.C. §102(b) or, in the alternative, under 35 U.S.C. §103(a) over Fowler et al. (US 5,635,469); Loth et al. (US 5,075,026) and Fowler or Loth in view of Baeck et al. (US 5,679,630).

Rejection Under 35 USC §112, Second Paragraph

The Office Action States Claims 2-4, 9 and 11-12 are rejected under 35 U.S.C. §112, second paragraph. The rejection has been addressed in the amended claims above.

Rejection Under 35 USC §103(a) Over US 6,114,298 (Petri et al.)

Claims 2-4, 9, 11-12 have been rejected under 35 USC §103(a) as being unpatentable over US 6,114,298 (Petri et al.). Specifically, Col. 16, lines 23-44 of Petri et al. is cited for discussing a spray dispenser, preferably a trigger spray dispenser or in a pump spray dispenser, and may include manually operated foam trigger-type dispensers. This passage further discusses that the types of dispensers (spray dispenser, trigger spray dispenser or foam trigger-type dispensers) are discussed in US 4,701,311 [sic] (believed to be US 4,781,311), US 4,646,973 and US 4,538,745.

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US 4,781,311 discusses a trigger sprayer having the following structure:

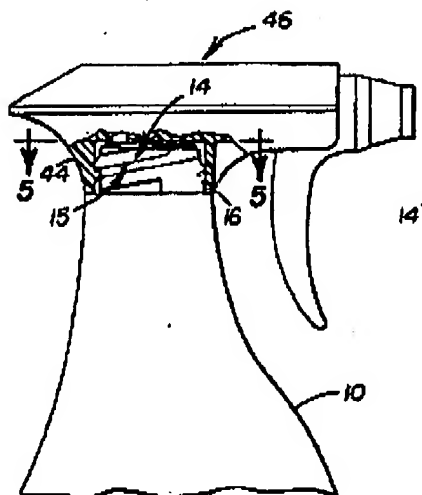
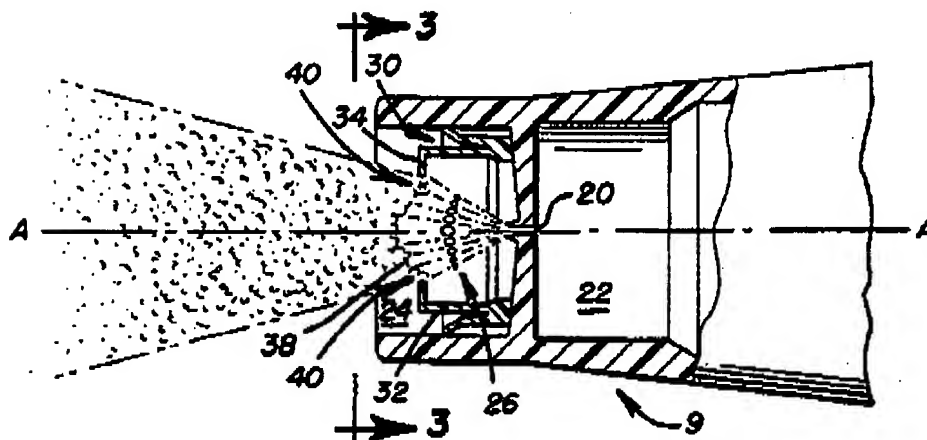


FIGURE 1

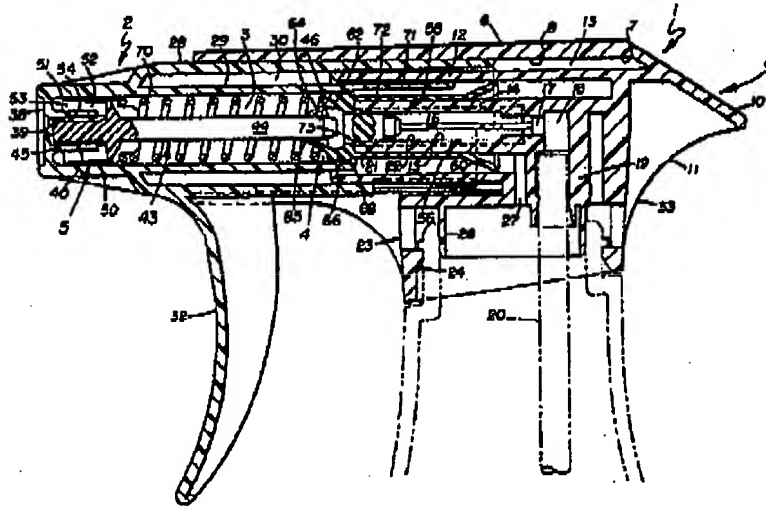
US 4,646,973 discusses an impingement foamer having the following structure:



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Where the orifice (38) created by perforation of the face (34) interrupts the liquid flow cone issuing from the atomizer orifice (20). US 4,646,973 further states that there is a critical relationship between the size of the spray cone formed by the atomizer orifice and the size of the interrupter orifice. (Col. 2, lines 47-54). The mixture of fluid in the chamber 26 is emitted from the orifice 38 as large sized particulate, highly aerated low velocity foam. The fluid is delivered through the atomizer orifice from a pressurized receptacle (not shown). (Col. 1, lines 51-62).

US 4,538,745 discusses a trigger sprayer having the following structure:



Applicants submit that Petri et al. does not establish a *prima facie* case of obviousness because it does not teach or suggest all of the claim limitations the present application.

The Office Action states that it would have been obvious to one of ordinary skill in the art to package the microemulsion of Petri et al. in the suggested packaging of the "foam trigger-type dispenser" discussed in Petri et al.. Applicants respectfully disagree that Petri et al. discusses a gas imparting mechanism to form the foam selected from an air injection piston, foam-generating aperture, a mesh or net, a pump, and/or a sprayer which injects or imparts air from the atmosphere into the dishwashing composition. The Office Action generalized the claim language presented in Claim 11 merely as a "foam

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trigger-type dispenser". Clearly the language of Claim 11 section (a) includes further description of the structure of the container. If it is the position of the Examiner that the language of Claim 11 (a) can be characterized as a "foam trigger-type dispenser", Applicants respectfully disagree and would direct attention to pages 5-7 and Figure 1 of the present specification.

Applicants further submit that Petri et al. does not teach or suggest a container comprising a foam-generating dispenser for generating a foam comprising a gas imparting mechanism to form the foam selected from an air injection piston, foam-generating aperture, a mesh or net, a pump, and/or a sprayer which injects or imparts air from the atmosphere into the dishwashing composition. As such, Applicants request that the rejection under 35 U.S.C. §103(a) over Petri et al. be withdrawn.

Further, Applicants would like to redirect attention to the June 13, 2006, Ortiz Declaration submitted November 20, 2006. The Office Action of February 6, 2007, stated that this declaration was rendered moot in view of Petri et al.. However, Applicants disagree and re-state that the data presented in the June 13, 2006, Ortiz Declaration is extremely on point for the trigger sprayers discussed in Petri et al..

Provisional Double Patenting

Claims 2-3 and 11-12 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting over claims 1, 5, 6, 11 and 12 of copending application No. 11/787,266 and 10/787,343.

If and when patentable subject matter is identified, Applicants shall submit a terminal disclaimer to address this rejection.

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Conclusion

This response represents an earnest effort to place the present application in proper form and to distinguish the invention as claimed from the applied reference(s). In view of the foregoing, entry of the amendment(s) presented herein, reconsideration of this application, and allowance of the pending claim(s) are respectfully requested. Applicants' attorney invites the Examiner to contact her with any questions she may have regarding the above referenced case.

Respectfully submitted,

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